

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARCUS HILLIARD,)	
)	
PLAINTIFF,)	
)	Case No. 20-cv-1144
v.)	
)	Judge Martha M. Pacold
NATIONAL BOARD OF MEDICAL)	
EXAMINERS and LOYOLA)	Magistrate Judge Gabriel A. Fuentes
UNIVERSITY OF CHICAGO,)	
)	
DEFENDANTS.)	

UNOPPOSED MOTION TO COMPEL PRODUCTION OF STUDENT FILES

Plaintiff Marcus Hilliard, by and through his undersigned attorney, hereby moves for the entry of an Order compelling Defendant Loyola University of Chicago's ("Loyola") production of select student education records, as set forth below. In support, Plaintiff states as follows:

1. On July 29, 2022, Plaintiff served Loyola with Requests for the Production of Documents pursuant to Fed. R. Civ. P. 34.

2. Plaintiff's Requests for Production included requests for student education records protected by the Family Educational Rights and Privacy Act of 1974 ("FERPA"). Specifically, Plaintiff sought, among other things:

- ALL DOCUMENTS evidencing any individual enrolled by Defendant from 2015 to present who were dismissed for failure to pass the NBME after three attempts. (Request No. 28).
- ALL DOCUMENTS evidencing other complaints of failure to accommodate made by any person enrolled at LOYOLA FROM January 2015 to present. (Request No. 51).

3. FERPA prohibits the disclosure of student education records without the subject student's written consent except in certain situations. One of the situations in which prior consent is not required is if the disclosure is made to "comply with a judicial order or lawfully issued subpoena." 34 CFR § 99.31(9)(i).

4. Some of the student education records requested in Plaintiff's Requests are relevant and responsive to the parties' claims and defenses.

5. Obtaining prior written consent from each affected student, however, will significantly interfere with the parties' ability to discover relevant information and conduct discovery in a timely manner.

6. In light of FERPA's restrictions and exception for documents whose disclosure is necessary to comply with a court order, and in an effort to facilitate discovery in this matter, Plaintiff moves the Court for an order compelling the production of student education records that Plaintiff and Loyola agree are relevant and responsive to Plaintiff's claims or Loyola's defenses.

7. Plaintiff has conferred with Defendant regarding this Motion. Without waiving its objections to any of Plaintiff's Requests for Production or to any subsequent discovery requests, and with the understanding that the Court's order would limit disclosure to those records which the parties agreed are relevant and responsive to the parties' claims and defenses, Defendant does not object to this Motion.

8. The parties further agree that any student education records produced will be produced pursuant to the parties' Amended Agreed Confidentiality Order entered on September 16, 2022. (Dkt. No. 71).

WHEREFORE, Plaintiff Marcus Hilliard respectfully requests that the Court enter an order compelling Loyola's production of student education records that Plaintiff and Loyola agree are

relevant and responsive to Plaintiff's claims or Loyola's defenses and grant any other relief it deems just and proper.

DATED: October 12, 2022

By: /s/ Cynthia M. Rote
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